

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated November 10, 2015 which found that the appellant did not meet three of the five statutory requirements of Section 2 of the *Employment and Assistance for Persons with Disabilities Act* for designation as a person with disabilities (PWD). The ministry found that the appellant met the age requirement and that his impairment is likely to continue for at least two years. However, the ministry was not satisfied the evidence establishes that:

- the appellant has a severe physical or mental impairment;
- the appellant's daily living activities (DLA) are, in the opinion of a prescribed professional, directly and significantly restricted either continuously or periodically for extended periods; and,
- as a result of these restrictions, the appellant requires the significant help or supervision of another person, the use of an assistive device, or the services of an assistance animal to perform DLA.

## PART D – Relevant Legislation

*Employment and Assistance for Persons with Disabilities Act* (EAPWDA), Section 2

*Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR), Section 2

## PART E – Summary of Facts

The ministry did not attend the hearing. After confirming that the ministry was notified, the hearing proceeded under Section 86(b) of the *Employment and Assistance Regulation*.

The evidence before the ministry at the time of the reconsideration decision included the appellant's Persons With Disabilities (PWD) Application comprised of the applicant information and self-report dated May 14, 2015, a physician report (PR) and an assessor report (AR) both dated June 16, 2015 and both completed by a general practitioner who has known the appellant for 4 years.

The evidence also included the following documents:

- 1) Laboratory and medical imaging requisitions dated October 25, 2010;
- 2) Medical Report- Employability dated October 29, 2010;
- 3) Undated letter in which an advocate enclosed a copy of the PWD application completed by the appellant for reference by the general practitioner; and,
- 4) Request for Reconsideration dated November 3, 2015 with attached documents:
  - Written statement by the appellant dated November 1, 2015;
  - Note dated November 2, 2015 from the appellant's general practitioner;
  - Laboratory requisition dated October 15, 2015 and undated imaging requisition.

### **Diagnoses**

In the PR, the appellant was diagnosed by the general practitioner with degenerative disc disease, asthma and osteoarthritis in his left hip, which have been present for years. Asked to describe the mental or physical impairments that impact the appellant's ability to manage daily living activities, the general practitioner wrote in the AR "...pain in back, feet, finger, wrists, chest and hips. Mobility restricted." In his note dated November 2, 2015, the general practitioner wrote that the appellant has been diagnosed with Hep C and is currently undergoing further assessment and treatment.

### **Physical Impairment**

In the PR and AR, the general practitioner reported that:

- In terms of health history, the "...back pain has been chronic and associated with inability to do activities of daily living. Has attempted treatment with pain clinic and is non-surgical candidate."
- The appellant requires an aid for his impairment which has not been identified.
- In terms of functional skills, the appellant can walk 2 to 4 blocks unaided, climb 5 or more steps unaided, lift 7 to 16 kg. (15 to 35 lbs.), and remain seated 1 to 2 hours.
- The appellant is assessed as being independent with all areas of mobility and physical ability while taking significantly longer than typical with walking indoors and outdoors and climbing stairs ("2 times longer"), as well as carrying and holding ("less than 30 lbs., less than ½ block/ takes 2 times longer"). He can stand for less than 30 minutes and lift less than 30 lbs.
- In the section of the AR relating to assistance provided, the general practitioner did not identify any of the listed assistive devices as applying to the appellant.

In the Medical Report- Employability dated October 29, 2010, a physician indicated that the appellant's primary medical condition of "backache" is episodic in nature and occurs once or twice a week and that pain restricts the appellant's mobility.

In the appellant's self-report, he wrote:

- Almost every time he stands up, his lower back is in severe pain and it can take 1- to 20 seconds to straighten up.
- He spends many sleepless nights trying to get comfortable.
- He gets pain in his chest when he takes a deep breath and when he sneezes it feels like his chest is being torn apart.
- Every now and then, if it is not his back, then his hips will give out on him and his wrists will get in pain. His fingers will seize up sometimes when he is handling things, causing him to drop things.
- He gets headaches from not having glasses.
- He has a new lump on the bottom of his foot causing his toe to seize up. He cannot walk 1 to 2 blocks without feeling great pain at the bottom of his big toe.

In his Request for Reconsideration, the appellant wrote that:

- As a result of mid and lower back pain, he has had to change the way he lives and work.
- He has to kneel down to pick things up instead of bending over.
- He has to sit on the edge of the tub to wash his feet.
- Instead of bending over to tie his shoes, he has to sit down and lift his leg onto his knee.
- Walking up and down stairs takes a lot longer than usual.
- He cannot sit for long or stand too long without pain in his lower back.
- He has chest pain and coughing and sneezing are very painful.
- He has to take two kinds of inhalers because of chest pains and shortness of breath.
- He takes medications for pain, for his asthma, and to help with sleep.

### ***Mental Impairment***

In the PR and AR, the general practitioner reported:

- The appellant has significant deficits with cognitive and emotional function in the areas of memory, emotional disturbance, motivation, and attention or sustained concentration. The general practitioner wrote: "...poor memory, lack of focus."
- The appellant has a good ability to communicate in speaking, satisfactory ability with writing and hearing, and poor ability with reading (described as "doesn't absorb new material").
- The section of the AR relating to impacts to cognitive and emotional functioning has been crossed out by the general practitioner as not being applicable.
- The section of the AR for setting out impacts to social functioning has also been crossed out as not being applicable to the appellant.

In the appellant's self-report, he wrote:

- He finds he is getting more depressed and tired.
- He gets mad a lot easier than he used to.
- He has no motivation to do things that he used to love to do.

In his Request for Reconsideration, the appellant wrote that:

- Mentally, it has affected his everyday life with depression and other mental health issues.
- He takes medications for depression.

### ***Daily Living Activities (DLA)***

In the PR and AR, the general practitioner indicated that:

- The appellant has not been prescribed medications and/or treatments that interfere with his ability to perform daily living activities.
- The appellant is independent with walking indoors and walking outdoors, taking significantly longer than typical described as two times longer.
- The appellant is independent with all of the listed tasks of the DLA basic housekeeping, shopping, meals, “pay rent and bills” and transportation, while taking significantly longer than typical with the tasks of laundry (“washes by hand, 5 to 10 times longer”), basic housekeeping (“takes many days”), carrying purchases home (“less than 30 lbs., less than ½ block”), and getting in and out of a vehicle (“2 to 3 times longer”).
- The appellant is independent with tasks of the personal care DLA, specifically: dressing, grooming, toileting, feeding self, regulate diet, transfers in/out of bed and on/off of chair and takes longer than typical with dressing (“needs to sit, 4 times longer”), with transfers in/out of bed (“pain and stiffness, takes 5 minutes longer”) and transfers on/off of chair (“2 times longer”). For bathing, the appellant takes significantly longer than typical and uses an assistive device, described as: “uses rail for transfers, 4 times longer.”
- For managing medications, the appellant is independent with filling/refilling prescriptions and with safe handling and storage but requires continuous assistance with taking as directed, described as “constantly forgets.”

### ***Need for Help***

In the AR, the general practitioner reported that, with respect to the assistance provided by other people, the appellant receives help from community service agencies. In the section of the AR for identifying assistance provided through the use of assistive devices, the general practitioner did not identify any of the listed items as being applicable to the appellant.

### ***Additional information***

In his Notice of Appeal dated November 27, 2015, the appellant expressed his disagreement with the ministry’s reconsideration decision and wrote:

- Everyone he talks to suggests he applies for disability.
- The ministry does not see his struggles every day.
- The ministry said he can take buses independently but the buses are a nightmare since he cannot read a bus schedule and he does not know north from south.
- He cannot cook and his house is a disaster.
- He gets so depressed.
- He goes grocery shopping only to realize that he bought junk food or drugs because the legal drugs do not work.
- He cannot budget his money.
- The ministry says that he can pay his bills and rent independently but this is far from the truth. If the ministry did not send the rent by direct deposit, he would be homeless.
- He is very forgetful and is constantly being asked if he remember to take his pills.
- His landlord said he should see a doctor about anger management issues.

At the hearing, the appellant stated that:

- This process has been going on for some time since he initially applied for PWD designation several years ago. It took a while to find a family doctor.

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- The ministry does not see his everyday living.
  - He cannot wash his feet without sitting down and he cannot tie his shoes without lifting his leg up rather than bending down.
  - He “does not have a clue how to cook.” He cannot cook without someone helping him. He does not know how to read a bus schedule and always has to ask the bus driver. He “does not have a clue” where he is going.
  - He has a hard time sweeping the floor and has to kneel down to sweep into a dustbin. His house is a mess.
  - He is not good at paying bills because he is always forgetting. He spends his money as soon as he gets it so he does not do “budgeting.” He would be homeless if the ministry did not pay his rent directly to the landlord. He has been homeless in the past..
  - He can refill his prescriptions because he has to go to his doctor every month.
  - He forgets to brush his teeth. He is “not great with grooming.”
  - He cannot make appropriate choices when shopping because he always chooses candy and junk food instead of healthy food. He goes days without eating because it is difficult to find something he can cook that does not come out of a can.
  - He has no laundry facility so he has to wash his laundry in the sink, which takes a long time and is hard on his back.
  - It is painful when he gets up from sitting. Walking up and down stairs is okay if he has a railing so he can pull himself up with his hands. He cannot sit or stand for too long.
  - He has to take medications to help him sleep. His landlord lives beside him and has asked him who he was fighting with but it was just him yelling because he was frustrated.
  - Getting in and out of vehicle is very slow because a reaching motion causes pain to his back.
  - He was recently diagnosed with Hep C and he has to go for more blood work. He is waiting for an appointment for follow-up and he thinks he may have to take some pills for the treatment. He has been sick with vomiting and diarrhea a couple of times recently but he does not know if that is related to Hep C or something else.
  - His foot has big lump on the bottom and, when he walks for more than 2 blocks, he can feel the pain shooting up his leg.
  - He cannot breathe in too deeply or it hurts his chest.
  - He lives alone and does not know anyone who could help him. He does not like to ask for help, even from the food bank. The doctor did not recommend that he use an assistive device, but he made himself a cane which he uses around his place but does not use it in public.
  - With his memory problems, he forgets appointments, forgets his keys and leaves the door on his residence open, and forgets his money at home when he goes shopping. He has to go for more blood work for his memory problems too.
  - He has also lost interest in sports and hobbies that he used to like.
  - The advocate who helped him fill out the PWD application for the doctor’s reference did not complete it with all the information he provided.

The ministry relied on the reconsideration decision.

***Admissibility of Additional Information***

The panel considered the appellant’s oral testimony as information that corroborates the appellant’s previous written testimony, which was before the ministry at reconsideration. Therefore, the panel admitted this additional information as being in support of information and records that were before the ministry at the time of the reconsideration, in accordance with Section 22(4)(b) of the *EAA*.

## PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's reconsideration decision, which found that the appellant is not eligible for designation as a person with disabilities (PWD), was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. The ministry found that the evidence does not establish that the appellant has a severe mental or physical impairment and that his daily living activities (DLA) are, in the opinion of a prescribed professional, directly and significantly restricted either continuously or periodically for extended periods. Also, as a result of those restrictions, it could not be determined that the appellant requires the significant help or supervision of another person, the use of an assistive device, or the services of an assistance animal to perform DLA.

The criteria for being designated as a person with disabilities (PWD) are set out in Section 2 of the EAPWDA as follows:

### **Persons with disabilities**

2 (1) In this section:

"**assistive device**" means a device designed to enable a person to perform a daily living activity that, because of a severe mental or physical impairment, the person is unable to perform;

"**daily living activity**" has the prescribed meaning;

"**prescribed professional**" has the prescribed meaning.

(2) The minister may designate a person who has reached 18 years of age as a person with disabilities for the purposes of this Act if the minister is satisfied that the person has a severe mental or physical impairment that

(a) in the opinion of a medical practitioner is likely to continue for at least 2 years, and

(b) in the opinion of a prescribed professional

(i) directly and significantly restricts the person's ability to perform daily living activities either

(A) continuously, or

(B) periodically for extended periods, and

(ii) as a result of those restrictions, the person requires help to perform those activities.

(3) For the purposes of subsection (2),

(a) a person who has a severe mental impairment includes a person with a mental disorder, and

(b) a person requires help in relation to a daily living activity if, in order to perform it, the person requires

(i) an assistive device,

(ii) the significant help or supervision of another person, or

(iii) the services of an assistance animal.

(4) The minister may rescind a designation under subsection (2).

Section 2(1) and (2) of the EAPWDR provide definitions of DLA and prescribed professionals as follows:

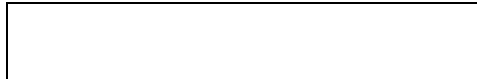
### **Definitions for Act**

2 (1) For the purposes of the Act and this regulation, "**daily living activities**" ,

(a) in relation to a person who has a severe physical impairment or a severe mental impairment, means the following activities:

(i) prepare own meals;

(ii) manage personal finances;



- (iii) shop for personal needs;
- (iv) use public or personal transportation facilities;
- (v) perform housework to maintain the person's place of residence in acceptable sanitary condition;
- (vi) move about indoors and outdoors;
- (vii) perform personal hygiene and self care;
- (viii) manage personal medication, and

(b) in relation to a person who has a severe mental impairment, includes the following activities:

- (i) make decisions about personal activities, care or finances;
- (ii) relate to, communicate or interact with others effectively.

(2) For the purposes of the Act, "prescribed professional" means a person who is

(a) authorized under an enactment to practise the profession of

- (i) medical practitioner,
- (ii) registered psychologist,
- (iii) registered nurse or registered psychiatric nurse,
- (iv) occupational therapist,
- (v) physical therapist,
- (vi) social worker,
- (vii) chiropractor, or
- (viii) nurse practitioner, or

(b) acting in the course of the person's employment as a school psychologist by

- (i) an authority, as that term is defined in section 1 (1) of the Independent School Act, or
- (ii) a board or a francophone education authority, as those terms are defined in section 1 (1) of the School Act, if qualifications in psychology are a condition of such employment.

### **Severe Physical Impairment**

The appellant's position is that a severe physical impairment is established by his degenerative disc disease and osteoarthritis in his left hip that cause pain in his back, feet, finger, wrists and hips. The appellant argued that he also has shortness of breath and pain in his chest due to his asthma. The appellant argued that he has a new lump on the bottom of his foot causing his toe to seize up and he cannot walk 1 to 2 blocks without feeling great pain at the bottom of his big toe. The appellant argued that walking up and down stairs takes a lot longer than usual, and he cannot sit for long or stand too long without pain in his lower back.

The ministry's position, as set out in the reconsideration decision, is that there is insufficient evidence to establish that the appellant has a severe physical impairment. The ministry wrote that the assessment by the general practitioner that the appellant takes 2 times longer with walking indoors and outdoors and with climbing stairs, and being limited to standing for less than 30 minutes and lifting less than 30 lbs., is not considered indicative of a severe impairment of physical functioning.

### ***Panel Decision***

A diagnosis of a serious medical condition does not in itself determine PWD eligibility or establish a severe impairment. An "impairment" is a medical condition that results in restrictions to a person's ability to function independently or effectively.

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To assess the severity of an impairment the ministry must consider the nature of the impairment and the extent of its impact on daily functioning as evidenced by functional skill limitations and the degree to which the ability to perform DLA is restricted. In making its determination the ministry must consider all the relevant evidence, including that of the appellant. However, the legislation is clear that the fundamental basis for the analysis is the evidence from a “prescribed professional” – in this case, the general practitioner.

In the PR, the general practitioner, who had known the appellant for approximately 4 years, diagnosed the appellant with degenerative disc disease, asthma and osteoarthritis in his left hip, which have been present for years. Asked to describe the mental or physical impairments that impact the appellant’s ability to manage daily living activities, the general practitioner wrote in the AR “...pain in back, feet, finger, wrists, chest and hips” and he noted that the appellant’s mobility is restricted. In his note dated November 2, 2015, the general practitioner wrote that the appellant has been diagnosed with Hep C and is currently undergoing further assessment and treatment. At the hearing, the appellant stated that he has not noticed any particular symptoms from the Hep C and has not yet started treatment, with possible associated side effects, as he is waiting for a further appointment with the specialist.

In the PR and AR, the general practitioner reported that the “...back pain has been chronic and associated with inability to do activities of daily living. Has attempted treatment with pain clinic and is non-surgical candidate.” The general practitioner indicated that the appellant requires an aid for his impairment, but he did not identify the type of aid. At the hearing, the appellant stated that his doctor did not recommend an aid or assistive device but he made himself a cane, which he sometimes uses around his place but not in public. In the section of the AR relating to assistance provided, the general practitioner did not identify any of the listed assistive devices as applying to the appellant.

In terms of functional skills, the general practitioner reported that the appellant can walk 2 to 4 blocks unaided, climb 5 or more steps unaided, lift 15 to 35 lbs., and remain seated 1 to 2 hours. The appellant is assessed as being independent with all areas of mobility and physical ability while taking significantly longer than typical with walking indoors and outdoors and climbing stairs (“2 times longer”), as well as carrying and holding (“less than 30 lbs., less than ½ block/ takes 2 times longer”). He can stand for less than 30 minutes and lift less than 30 lbs. Also, as discussed in more detail in these reasons for decision under the heading “Restrictions in the Ability to Perform DLA”, the limitations to the appellant’s physical functioning have not directly and significantly restricted his ability to perform his DLA either continuously or for extended periods, as required by the EAPWDA.

Given that the appellant remains independent with his mobility and physical ability, with functional skill abilities in the moderate range, the panel finds that the ministry reasonably determined that taking 2 times longer with some aspects is not indicative of a severe impairment of physical functioning. Therefore, the panel finds that the ministry reasonably determined that there is not sufficient evidence to establish that the appellant has a severe physical impairment under Section 2(2) of the EAPWDA.

**Severe Mental Impairment**

The appellant’s position is that a severe mental impairment is established by depression, his poor memory, and lack of motivation that has affected his life. The appellant argued that he takes medications for depression and he gets mad a lot easier than he used to and he has to go for further



blood work for investigation of his memory problems.

The ministry's position is that there is insufficient evidence to establish that the appellant has a severe mental impairment as required by Section 2(2) of the EAPWDA. The ministry wrote that the general practitioner did not diagnose a mental impairment or brain injury and has not completed the sections of the PWD application to assess impacts to cognitive and emotional or social functioning.

*Panel Decision*

The general practitioner did not diagnose the appellant with a mental disorder, although he indicated that there are significant deficits with cognitive and emotional function in the areas of memory, emotional disturbance, motivation, and attention or sustained concentration. The general practitioner wrote: "...poor memory, lack of focus." However, the section of the AR relating to impacts to cognitive and emotional functioning has been crossed out by the general practitioner as not being applicable.

Considering the two DLA that are specific to mental impairment – make decisions about personal activities, care or finances (decision making), and relate to, communicate or interact with others effectively (social functioning), there is very little evidence from the general practitioner of impacts to either. The general practitioner assessed most decision-making components of DLA as independent, specifically personal care (regulate diet), shopping (making appropriate choices and paying for purchases), meals (meal planning and safe storage of food), managing his finances (budgeting and paying rent and bills), managing medications (safe handling and storage), and transportation (using transit schedules and arranging transportation). The general practitioner indicated that the appellant requires continuous assistance from another person with the task of taking his medications as directed and wrote "constantly forgets." At the hearing, the appellant emphasized that he does not know how to make appropriate choices when he is shopping, that he "does not have a clue" about meal planning or budgeting or using transit schedules. The appellant stated that he has been homeless before when the ministry was not paying his rent directly to the landlord. The appellant also stated that his doctor is investigating his memory problems because he forgets to take his medications, forgets appointments and his keys. However, there were no further reports available from the general practitioner or a mental health specialist regarding the difficulties described by the appellant.

Regarding the DLA of social functioning, the general practitioner crossed out the section for assessing impacts as not being applicable to the appellant. The general practitioner reported that the appellant has a good ability to communicate in speaking, satisfactory with writing and hearing, and poor in reading as he "doesn't absorb new material."

Given the absence of a mental health diagnoses and insufficient evidence from the general practitioner of impacts to the appellant's cognitive and emotional and social functioning, the panel finds that the ministry reasonably determined that a severe mental impairment was not established under Section 2(2) of the EAPWDA.

**Restrictions in the ability to perform DLA**

The appellant's position is that his physical and mental impairments directly and significantly restrict his ability to perform DLA on an ongoing basis to the point that he requires the significant assistance of another person, specifically community service agencies.

The ministry's position is that the information from the prescribed professional does not establish that the appellant's impairments significantly restrict his DLA either continuously or periodically for extended periods of time. The ministry wrote that taking 2 times longer to complete an activity is not considered indicative of significant restrictions to DLA, that taking longer for laundry to wash by hand is not necessarily related to impairment, and the general practitioner indicated that the appellant is independent with the majority of listed DLA.

*Panel Decision*

Section 2(2)(b) of the EAPWDA requires that the ministry be satisfied that a prescribed professional has provided an opinion that an applicant's severe impairment directly and significantly restricts his DLA, continuously or periodically for extended periods. In this case, the general practitioner is the prescribed professional. DLA are defined in Section 2(1) of the EAPWDR and are also listed in the PR and, with additional details, in the AR. Therefore, the prescribed professional completing these forms has the opportunity to indicate which, if any, DLA are significantly restricted by the appellant's impairments either continuously or periodically for extended periods.

In the appellant's circumstances, the general practitioner reported that the appellant has not been prescribed medications and/or treatments that interfere with his ability to perform DLA. The general practitioner indicated that the appellant is independent with walking indoors and walking outdoors, taking two times longer than typical, without the need for an aid. The general practitioner also assessed the appellant as independent with all of the listed tasks of the DLA basic housekeeping, shopping, meals, "pay rent and bills" and transportation, while taking significantly longer than typical with the tasks of laundry, basic housekeeping, carrying purchases home, and getting in and out of a vehicle. The general practitioner wrote that, for laundry, the appellant "washes by hand" and this takes him "5 to 10 times" longer, the appellant stated at the hearing that he has no laundry facilities and does his laundry in the sink, and the panel finds that the ministry reasonably concluded that this additional length of time to do laundry is not necessarily due to impairment. For getting in and out of a vehicle, the general practitioner wrote that this takes the appellant "2 to 3 times longer" and the appellant stated at the hearing that reaching causes pain to his back.

The general practitioner indicated that the appellant is independent with tasks of the personal care DLA, specifically: dressing, grooming, toileting, feeding self, regulate diet, transfers in/out of bed and on/off of chair and takes longer than typical with dressing ("needs to sit, 4 times longer"), with transfers in/out of bed ("pain and stiffness, takes 5 minutes longer") and transfers on/off of chair ("2 times longer"). For bathing, the appellant takes significantly longer than typical and uses an assistive device, described as: "uses rail for transfers, 4 times longer." For managing medications, the appellant is independent with filling/refilling prescriptions and with safe handling and storage but requires continuous assistance with taking as directed, described as "constantly forgets." Given that the appellant remains independent with his mobility and physical ability, with functional skill abilities in the moderate range, the panel finds that the ministry reasonably determined that taking 2 times longer to complete an activity is not indicative of significant restrictions to DLA. Also, as previously discussed, the evidence does not clearly indicate that the appellant is significantly restricted in either DLA specific to mental impairment, namely decision making or social functioning.

Considering the evidence of the general practitioner as the prescribed professional, the panel finds that while there are a few tasks of the personal care DLA that take the appellant significantly longer than typical and one task of the medication DLA requires continuous assistance, all other tasks of DLA are completed independently by the appellant and the ministry was reasonable to conclude that,

therefore, the evidence is insufficient to show that the appellant's overall ability to perform his DLA is significantly restricted either continuously or periodically for extended periods, pursuant to Section 2(2)(b)(i) of the EAPWDA.

**Help to perform DLA**

The appellant's position is that his physical and mental impairments significantly restrict his daily living functions to a severe enough extent that significant assistance is required from another person.

The ministry's position is that because it has not been established that DLA are significantly restricted, it cannot be determined that significant help is required. The ministry wrote that no aids are required by the appellant.

**Panel Decision**

Section 2(2)(b)(ii) of the EAPWDA requires that, as a result of direct and significant restrictions in the ability to perform DLA, a person requires help to perform those activities. Help is defined in subsection (3) as the requirement for an assistive device, the significant help or supervision of another person, or the services of an assistance animal in order to perform a DLA.

In the AR, the general practitioner reported that, with respect to the assistance provided by other people, the appellant receives help from community service agencies. At the hearing, the appellant stated that he lives alone and there is no one to help him. He stated that the doctor has not recommended that he use an assistive device although he made a cane that he uses sometimes indoors. In the section of the AR for identifying assistance provided through the use of assistive devices, the general practitioner did not identify any of the listed items as being applicable to the appellant.

The panel finds that the ministry reasonably determined that as direct and significant restrictions in the appellant's ability to perform DLA have not been established, it cannot be determined that the appellant requires help to perform DLA as a result of those restrictions, as defined by section 2(3)(b) of the EAPWDA.

**Conclusion**

Having reviewed and considered all of the evidence and relevant legislation, the panel finds that the ministry's reconsideration decision which determined that the appellant was not eligible for PWD designation pursuant to Section 2(2) of the EAPWDA was reasonably supported by the evidence, and therefore confirms the decision.